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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of:

BLUCHER

Appl. No. 09/491,639

Filed: January 27, 2000

For: **Contour Fit Pan Liner for a
Food Service Pan**

Art Unit: 3727

Examiner: S. Castellano

Atty. Docket: 2102.0010000 TECHNOLOGY CENTER R3700

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Declaration Under 37 C.F.R. § 1.132

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, the undersigned, Michael Handley, residing at 4303 Enchanted Oaks Drive, Arlington, Texas declare and state as follows:

1. My experience in the restaurant and food service industries totals over 19 years.
2. I am currently employed as a regional sales manager by M & Q Plastic Products, Inc. ("M&Q") of North Wales, Pennsylvania, which is the assignee of the above-identified patent application. I have been employed by M&Q since November 2000.
3. My duties at M&Q include selling products such as the pan liner described and claimed in the present patent application. I market and sell the pan liners to restaurants, food service institutions and restaurant supply companies.
4. For the period April 1983 until November 2000, prior to my employment with M&Q, I was employed in various capacities in the food service industry. My employment included managing a chain of restaurants, managing a catering business, and managing a chain of cafeteria-style restaurants. My management responsibilities during this period included, among other things, managing food product development and field testing new restaurant equipment.
5. The invention claimed in the patent application relates to the field of food service equipment and supplies. The educational and skill level varies greatly in the food service industry. In my opinion, a person of ordinary skill in the field of food service equipment and supplies would likely have a college level education and would have about 5 years of experience working for a manufacturer or distributor of food service supplies.
6. While my education is college level, having completed approximately 80% of a four year degree in business administration, based on my experience working in the food

service industry, I believe I am an expert in the field. At minimum, I am at least as skilled as a person of ordinary skill in this art.

7. I have reviewed the above-identified patent application, the Office Action dated February 13, 2002, and the pertinent references cited in the Office Action. I have also reviewed independent claims 1, 32, 34 and 36 as amended.

8. The Office Action states that claims 1, 32, 34, and 36 would have been obvious to a person of ordinary skill in the art in view of various combinations of U.S. Pat. No. 4,320,699 to Binks, U.S. Pat. No. 2,542,413 to Ibsch, Jr., U.S. Pat. No. 4,828,134 to Ferlanti, U.S. Pat. No. 3,549,451 to Kugler, and a product brochure from M&Q Plastic Products, Inc. In my opinion, it would not be obvious to a person skilled in the art to combine the teachings of these documents to reproduce the claimed invention. Detailed support for my opinion is as follows:

A. When using a bag-shaped pan liner with a flat bottom, the pockets formed in the corners of the bag will trap food leading to waste. This is especially true for large shallow cooking pans that create large pockets in the corners. This problem is not addressed by any of these documents cited in the Office Action.

B. Binks discloses a pan liner for use in cooking. More specifically, Binks discloses a tetrafluoroethylene polymer liner, which can withstand temperatures on the order of 500degF. (See Binks at col. 4, lines 34-54.) The liner is in the form of a sheet to be laid on a cooking surface or pan. The Binks liner does not have a pre-formed bag-shaped body.

C. Kugler discloses a method for manufacturing a plastic bag such as a bread bag. The bag of Kugler has a gusseted or satchel bottom. The bag of Kugler is not suitable for cooking and does not address the problem of food entrapment.

D. The laminated vessels of Ibsch, Jr. and Ferlanti would not suggest to a person of ordinary skill in the art to line a pan with a liner having a pre-formed bag-shaped body.

E. The product brochure shows a polymeric cooking bag, but does not suggest having a contour fit to prevent food entrapment.

9. I have also been asked to provide my opinion as to whether the claimed pan liner having a contoured bottom edge would have been obvious to a person of ordinary skill in the art in view of the conventional pan liner having a square bottom as described in the patent application at page 2, lines 26-31, and page 3, lines 1-19, in combination with any of the documents cited in the Office Action.

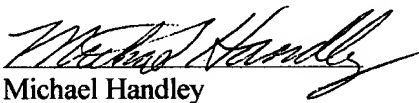
10. It is my opinion that the pan liner with a contoured bottom edge would not have been obvious to a person skilled in the art based on any of this prior art. Detailed support for my opinion is as follows:

A. Bag-shaped pan liners with a flat bottom are inexpensive to manufacture but suffer from the problem of food waste due to entrapment in the square corners. I have personally used the pan liners of the invention. I have also sold the pan liners to customers and have seen the results of customers' use. The contour fit pan liner is a significant improvement over the flat bottom, square corner pan liner.

B. It is my opinion that a person of ordinary skill in the art would not look to Kugler, which teaches plastic bags manufactured from low-temperature materials, for a solution to the problem solved by the invention. Furthermore, the gusseted bag design of Kugler is more complex than the contour bottom pan liner of the invention, and the gusseted bag design would be more expensive to manufacture.

11. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present patent application or any patent issued thereon.

Respectfully submitted,


Michael Handley

Date: August 15, 2002